

In support of its contention that the injury was contributed to by claimant's use of drugs or alcohol, respondent offers evidence that claimant was on probation for a

conviction relating to possession of drugs and probation was revoked because claimant failed a breath analysis on the Saturday before the injury on Monday. The evidence also indicates claimant refused to allow a urinalysis following the accident. These circumstances raise suspicions; they do not meet respondent's burden of establishing that the injury was contributed to by use of alcohol or drugs.

WHEREFORE, the Appeals Board finds that the Order of Administrative Law Judge John D. Clark dated March 30, 1995 should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of June 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Brian D. Pistotnik, Wichita, KS
Vincent A. Burnett, Wichita, KS
John D. Clark, Administrative Law Judge
George Gomez, Director